

The Chairman, Michael Hutson, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M., on Tuesday, March 18, 2003.

PRESENT: Kenneth Courtney  
Marcia Gies  
Michael Hutson  
Matthew Kovacs  
Mark Maxwell  
Mark Vleck

ALSO PRESENT: Mark Stimac  
Lori Grigg Bluhm  
Pam Pasternak

ABSENT: Christopher Fejes

**ITEM #1 – APPROVAL OF MINUTES MEETING OF FEBRUARY 18, 2003**

Motion by Courtney  
Supported by Vleck

MOVED, to approve the minutes of the meeting of February 18, 2003 as written.

Yeas: 5 – Gies, Hutson, Maxwell, Vleck, Courtney  
Abstain: 1 – Kovacs  
Absent: 1 – Fejes

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

**ITEM #2 – APPROVAL OF ITEMS #3 AND #4**

**RESOLVED**, that items #3 and #4 are hereby approved in accordance with the suggested resolutions printed in the Agenda Explanation.

Motion by Courtney  
Supported by Maxwell

Yeas: 6 – Gies, Hutson, Kovacs, Maxwell, Vleck, Courtney  
Absent: 1 – Fejes

**ITEM #3 – RENEWAL REQUESTED. K-MART, 100 E. MAPLE**, for relief which will allow for an outdoor display of plant material, during the months of April through July, in front of K-Mart along the north side of the fenced area and a four-foot section of the sidewalk at the west end of the building, adjacent to the building.

Mr. Stimac explained that the petitioner is requesting renewal of a variance granted by this Board on a yearly basis since 1978, which allows for an outdoor display of plant materials in front of Kmart along the north side of the fenced area and four-foot section of the sidewalk, at the west end of the building, adjacent to the building. This display is used for plants and flowers, and the variance is valid during the months of April through

**ITEM #3 – con't.**

July. This request has been subject to the petitioner providing a corral type fence to both enclose the area of the display and maintain a safe sidewalk at the same time. This item last appeared before this Board at the meeting of March 19, 2002 and was granted a one-year renewal at that time. Conditions remain the same and we have no complaints or objections on file.

MOVED, to grant K-Mart, 100 E. Maple, a one (1) year renewal of relief which will allow for an outdoor display of plant material, during the months of April through July, in front of K-Mart along the north side of the fenced area and a four-foot section of the sidewalk at the west end of the building, adjacent to the building.

- Petitioner will provide a corral type fence to both enclose the area of the display and maintain a safe sidewalk.
- There are no complaints or objections on file.

**ITEM #4 – RENEWAL REQUESTED. S.O.C. CREDIT UNION, 4555 INVESTMENT DR.,** for relief to maintain a 6' high berm in lieu of the 6' high masonry-screening wall required along the south property line.

Mr. Stimac explained that the petitioner is requesting renewal of a variance granted by this Board since 1987 to maintain a 6' high berm in lieu of the 6' high masonry-screening wall required along the south property line abutting residential zoning. The berm is in place and landscaping has been completed and it appears to adequately screen the sites from the south. This item last appeared before this Board at the meeting of March 21, 2000 and was granted a three-year (3) renewal at that time. Conditions remain the same and we have no complaints or objections on file.

MOVED, to grant S.O.C. Credit Union, 4555 Investment Dr., a three-year (3) renewal of relief to maintain a 6' high berm in lieu of the 6' high masonry-screening wall required along the south property line abutting residential zoning.

- Conditions remain the same
- There are no complaints or objections on file.

**ITEM #5 – VARIANCE REQUESTED. THE BHARATIYA TEMPLE, 6850 ADAMS,** for relief to maintain a berm in lieu of the 4'-6" high masonry screening wall required where off-street parking abuts residential property and relief of the minimum number of trees required along South Boulevard.

Mr. Stimac explained that the petitioner is requesting relief to maintain a berm in lieu of the 4'-6" high masonry screening wall required where off-street parking abuts residential and relief of the minimum number of trees required along South Boulevard. This Board on a yearly basis has granted this variance since December 1990 mainly due to the fact that the location is far enough away from South Boulevard and already protected by a

**ITEM #5 – con't.**

wooded area and pond. This item last appeared before this Board at the meeting of January 2000 and was granted a three (3) year renewal. In January 2003, a motion was made by this Board to hold a Public Hearing in order that this relief may be considered for a permanent variance. This item last appeared before this Board at the meeting of February 18, 2003 and was postponed to allow the petitioner the opportunity to be present.

Mr. Douglas Neci, the architect for the temple, and Mr. Ramarao Cherukuri were present and stated that they would very much like to see this become a permanent variance.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one (1) written objection on file. There are no written approvals on file.

Mr. Stimac explained that the conditions that originally warranted the variance were in part based on the fact that the developed part of the site is far away from the adjacent residential development in the area. Mr. Stimac stated that the primary development sits at the central southern end of the site and the parking lot is immediately north of that, and there is a considerable natural buffer that screens the property from the residential development. The petitioner presented the Board with a site plan indicating a 150' setback and a 200' setback from the adjacent residential property. Mr. Stimac suggested that a variance could be granted with certain conditions that could define a certain setback, which would still give a significant buffer to the existing homes in the area.

Mr. Cherukuri stated that he would prefer to have the buffer set at a 100' line rather than a 200' line. Mr. Cherukuri also indicated that the property is quite high and would not be visible to the homes in the area.

Motion by Courtney  
Supported by Gies

MOVED, to grant The Bharatiya Temple, 6850 Adams, a permanent variance for relief of the 4'-6" high masonry screening wall required where off-street parking abuts residential property on the condition that there will be a minimum of 150' from the adjacent residential property, and relief of the minimum number of trees required along South Boulevard.

- 150' setback will provide adequate screening of the parking area.
- There is sufficient natural landscaping between the building and South Boulevard.
- Variance is not contrary to public interest.

**ITEM #5 – con't.**

- Variance will not have an adverse effect on surrounding property.

Yeas: 6 – Hutson, Kovacs, Maxwell, Vleck, Courtney, Gies

Absent: 1 – Fejes

MOVED TO GRANT VARIANCE CARRIED

**ITEM #6 – VARIANCE REQUESTED. TOM MOSS & ASSOCIATES, 1893**

**BIRCHWOOD (PROPOSED ADDRESS)**, for relief of the front yard setback to construct a new industrial building.

Mr. Stimac explained that the petitioner is requesting relief to construct a new industrial building. Section 30.20.09 of the Troy Zoning Ordinance requires a 50' front yard setback in the M-1 (Light Industrial) Zoning District. Paragraph L of Section 31.30.00 further states that this setback shall be from all public street frontages and that these yards shall remain as landscaped open spaces. The property in question is located at the northeast corner of the intersection of Birchwood and unimproved Alger Street. Because of this, the Ordinance requires a 50' front yard setback from the south as well as the west property line. The site plan submitted shows the proposed building to be only 30' from the west property line and shows a driveway right at the west property line.

This Board heard a similar request in June 1995 and a variance was granted to construct a 6,142 square foot building with a zero setback from Alger, as well as relief to provide a 10' greenbelt with trees along Alger. That building has never been constructed and the variance has since expired. Mr. Stimac also said that originally the petitioner had made an application to the Planning Commission to have Alger vacated, however, due to the fact that there is one remaining single family dwelling located here, they have withdrawn their petition.

Mr. Maxwell asked if Alger is now a private drive and Mr. Stimac said that although it only serves the one home, it is still considered a public street. Mr. Stimac also explained that the north half of Alger has been vacated and is now private property, but the part of Alger in front of this home and south is still considered a public street.

Mr. Tom Moss was present and stated that they have struggled with this property for the last four or five months to try and make it buildable for their new offices. Mr. Moss also said that their offices are in a rented property and would like to be able to construct this building as a permanent home. Mr. Moss further stated that presently the lease on the existing home is up in 2004 and the owner has indicated that at that time he plans to demolish the home. At that time, the petitioner plans to make an application to have Alger Street vacated. Mr. Moss said that utility lines are located on the west side of the property line and that was the reason they wished to put the building at the east side of

**ITEM #6 – con't.**

the property. Mr. Moss further indicated that he had spoken to the neighbor to the east and they do not have any objections to this construction.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one written approval on file. There are no written objections on file.

Motion by Maxwell  
Supported by Courtney

MOVED, to grant Tom Moss & Associates, 1893 Birchwood (proposed address) relief of the front yard setback to construct a new industrial building.

- The ultimate vacation of the adjacent portion of Alger street would bring the building into compliance.
- Variance is not contrary to public interest.
- Literal enforcement of the Zoning Ordinance is unnecessarily burdensome.
- Variance does not permit the establishment of a prohibited use within a zoning district.

Yeas: 6 – Kovacs, Maxwell, Vleck, Courtney, Gies, Hutson  
Absent: 1 – Fejes

MOTION TO GRANT VARIANCE CARRIED

**ITEM #7 – VARIANCE REQUESTED. BRUCE BURLAGER, 1749 BEECH LANE DRIVE,** for relief of the Zoning Ordinance to maintain a covered deck structure, which has been constructed without first obtaining the required building permit.

Mr. Stimac explained that the petitioner is requesting relief to maintain a covered deck structure, which has been constructed without first obtaining the required building permit. Section 40.57.10 requires Board of Zoning Appeals approval for any detached accessory structure other than an antenna, cabana, doghouse, garage or shed. This structure has been determined to be one requiring the Board's approval.

Mr. Maxwell asked if the petitioner would need to come before the board if this were one of the other types of structures listed and Mr. Stimac said that as far as setbacks, lot coverage and size of accessory buildings, this structure does comply with the Ordinance.

Mr. Bruce Burlager was present and stated that originally he had built the deck in order for his family to have a seating area and covered it with a tarp, however the tarp would blow all over and he wanted to be able to protect this deck, so he put a roof over it. Mr.

**ITEM #7 – con't.**

Burlager said that he put the roof over the deck in order to keep the sap from the pine trees from ruining the surface of the deck. Mr. Burlager also said that they use it quite a lot for entertaining.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are five (5) written approvals on file. There are no written objections on file.

Motion by Vleck  
Supported by Kovacs

MOVED, to grant Bruce Burlager, 1749 Beech Lane Drive, relief of the Zoning Ordinance to maintain an accessory building other than an antenna, cabana, dog house, garage or shed in a residential district.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Variance applies to this property only.

Yeas: 6 – Maxwell, Vleck, Courtney, Gies, Hutson, Kovacs  
Absent: 1 – Fejes

MOTION TO GRANT VARIANCE CARRIED

**ITEM #8 – VARIANCE REQUESTED. CHRISTOPHER MAY, 1145 W. SOUTH BOULEVARD**, for relief to construct an addition to a non-conforming structure.

Mr. Stimac explained that the petitioner is requesting relief to construct an addition to his home. Section 10.60.03 of the Zoning Ordinance requires a 50' setback from the ultimate right of way of major thoroughfares. The site plan submitted indicates the existing house has only a 30' front setback from the South Boulevard ultimate right of way. As such, this is a legal non-conforming structure. The proposed two-story addition on the east side of the home would continue this 30' front yard setback. Section 40.50.04 prohibits expansions of non-conforming structures in a way that increases its non-conformity.

Mr. May was present and stated that he had met the setback prior to the City earmarking 60' for the expansion of South Boulevard. Mr. May said that he would like to put an addition on the rear of the home, however; his home is very unusual looking and has determined that the only way to add to this home is on the east side.

Mr. Hutson asked what other changes would be done to the home based on the sketches that Mr. May had included with his application. Mr. May indicated that the

**ITEM #8 – con't.**

existing house would not have any major structural changes to the inside but that the roof line would be changed to one level, and the addition would be the triangular portion of the home. Mr. Hutson asked how long they have lived in this home and Mr. May said that it has been since 1998. Mr. Hutson then asked Ms. Bluhm when the right of way was designated by the City, and Ms. Bluhm said that the designation of this right of way has been a part of the master plan and has been in effect since 1972. Mr. Hutson then said that although there may not have been any construction at the time, the right of way was planned long before Mr. May purchased his home.

Mr. Vleck asked if a variance would be required if the addition was added to the rear of the home, and Mr. Stimac explained that a variance is required if the addition would increase the non-conformity, and a rear addition would not increase this non-conformity.

Mr. Kovacs asked how far the house sits from the road now and how far it will set once the road expansion is completed. Mr. Stimac indicated that according to the surveys provided by the petitioner, there would still be 30' from the right of way line to the existing structure. Mr. Stimac further said that there would be approximately 29' from the right of way line to the curb. That, together with the 30' setback, would result in approximately 60' from the home to the curb once the road is widened.

Mr. May said that in that area there are at least eight (8) other homes which are closer to the right of way line than his home. Mr. Hutson said that although that is correct, there are also other homes that are farther back.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are no written approvals or objections on file.

Motion by Kovacs  
Supported by Courtney

MOVED, to grant Christopher May, 1145 W. South Boulevard, a variance for relief to construct an addition to a non-conforming structure.

- Variance is not contrary to public interest.
- Variance does not establish a prohibited use in a Zoning District.
- Variance applies to this property only.
- Literal enforcement of the Ordinance would be unnecessarily burdensome.

Yeas: 6 – Vleck, Courtney, Gies, Hutson, Kovacs, Maxwell  
Absent: 1 – Fejes

MOTION TO GRANT VARIANCE CARRIED

Mr. Stimac asked the Board members who was planning to attend Mr. Pallotta's retirement dinner as it is scheduled on the same night as the May Board of Zoning Appeals meeting. It was determined that several members were planning to attend the retirement and Mr. Stimac said that the Building Department will attempt to re-schedule the meeting for Wednesday May 21, 2003 or Thursday May 22, 2003. We will contact the Board members and advise them of the date.

The Board of Zoning Appeals meeting adjourned at 8:13 P.M.

MS/pp